

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

MIKHAIL DAVITASHVILI

PLAINTIFF

V.

CIVIL ACTION NO.2:08CV190-NBB-JAD

R. ADAMS, et al.

DEFENDANTS

REPORT AND RECOMMENDATION

The plaintiff filed this action making complaints in three areas of his experience at the Tallahatchie County Correctional Facility (TCCF). He complains about the use of force against him, the provision of medical care to him, and the alleged denial of a proper kosher diet. Multiple defendants including Corrections Corporation of America (CCA) the private company that runs TCCF are named in that action. Since the filing of this lawsuit Davitashvili has been transferred to another CCA run facility in Eloy, Arizona.

He has now filed a motion for a preliminary injunction asserting continuing violations of his right to receive a kosher diet. All allegations in the motion concern events occurring in Arizona. No pleadings in this action relate to allegations against any defendant in this action regarding any act or omission occurring in Arizona. It therefore appears that Davitashvili cannot introduce any evidence regarding any claim arising in the state of Arizona. He therefore cannot show that he is likely to prevail on the merits of his claim. There are four mandatory prerequisites to the granting of injunctive relief. The failure to meet any one of the four prerequisites mandates denial of the requested relief. *Mississippi Power & Light Co. v. United Gas Pipe Co.*, 760 F.2d 618 (5th Cir. 1985) (citing *Canal Authority of State of Florida v. Callaway*, 489 F.2d 567 (5th Cir. 1974)).

The undersigned recommends that the motion for preliminary injunction be denied (Doc. 90).

The undersigned also notes there is no discernible basis upon which this court could assert personal jurisdiction over any individuals involved in any deprivation of the plaintiff's rights while in Arizona. Additionally given that Arizona is where the plaintiff is presently incarcerated, any individual defendants and all witnesses are located, that state, not Mississippi is clearly the appropriate forum state for any current complaints Davitashvili may have about his incarceration.

The parties are referred to 28 U.S.C. § 636(b)(1) and Local Rule 72(a)(3) for the appropriate procedure in the event any party desires to file objections to these findings and recommendations. Objections are required to be in writing and must be filed within fourteen days of this date. Failure to file written objections to the proposed findings and recommendations contained in this report within fourteen days from the date of filing will bar an aggrieved party from challenging on appeal both the proposed factual findings and the proposed legal conclusions accepted by the district court *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

Plaintiff is directed to acknowledge receipt of this report and recommendation by signing the enclosed acknowledgment form and returning it to the court within fourteen days of this date. Plaintiff is warned that failure to comply with the requirements of this paragraph may lead to the dismissal of this lawsuit under F.R.Civ.P. 41(b) for failure to prosecute and for failure to comply with an order of the court.

This the 17th day of May, 2010.

/s/ JERRY A. DAVIS
UNITED STATES MAGISTRATE JUDGE